

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL MORGAN,

Plaintiff,

REPORT & RECOMMENDATION
03 CV 2655 (CBA)(LB)

-against-

DR. KENNETH CHO,

Defendant.

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BLOOM, United States Magistrate Judge:

Plaintiff filed this *pro se* action on May 23, 2003, alleging violations of his civil rights under 42 U.S.C. § 1983. On June 30, 2003, the Court dismissed plaintiff's claims against all defendants except for Dr. Kenneth Cho and ordered plaintiff to file an amended complaint as to that defendant. (Document 3). Plaintiff timely filed an amended complaint as well as a motion for reconsideration of the Court's order and an appeal of the order to the Second Circuit Court of Appeals. (Documents 4, 10). The appeal was dismissed on March 25, 2004. Plaintiff wrote the Court on July 14, 2004 in reference to the instant case and five other cases plaintiff had filed at that time. Plaintiff has taken no further action in this case since that time.

On September 23, 2008, the Court issued an order directing plaintiff to show good cause in writing by October 13, 2008 why this case should not be dismissed as abandoned. Plaintiff has not responded to the Court's order. Therefore it is respectfully recommended that this case should be dismissed and judgment should be entered. It is further recommended that the Court should certify pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status should be denied for the purpose of any appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

FILING OF OBJECTIONS TO REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be made within the ten-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital District Physician's Health Plan, Inc., 293 F.3d 42 (2d Cir. 2002); Small v. Secretary of Health and Human Services, 892 F.2d 15 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED.

/S/


Lois Bloom
United States Magistrate Judge

Dated: November 24, 2008
Brooklyn, New York